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C O N F I D E N T I A L QUITO 002409

SIPDIS

E.O. 12958: DECL: TEN YEARS

TAGS: [PGOV](#) [PINS](#) [EC](#)

SUBJECT: PALACIO'S ASSEMBLY PROPOSAL BLOCKED BY TRIBUNAL

REF: QUITO 2359

Classified By: PolChief Erik Hall for reasons 1.4 (b&d).

1. (C) Summary: The rejection of President Palacio's referendum proposal to convoke a national constituent assembly by the electoral tribunal was swift and has forced the GOE to reevaluate its options to promote reform. Signals from Congress are mixed, with some calling for new talks with the Palacio government about consensus reforms by referendum, and others calling on Congress to act on its own. Rumors that the two largest parties are planning to oust Palacio with military help were denied by the Defense Minister. Social groups favoring reform have rallied to Palacio's support, and polls indicate widespread popular support for an assembly. While further confrontation between executive and legislative branches could be averted, we are uncertain whether Palacio will seek to lower tensions. End Summary

TSE Rejects Legality of Presidential Move

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2. (U) The Supreme Electoral Tribunal (TSE), composed of seven political party representatives, declared by a 5-2 vote on October 20 that Palacio's one-question referendum proposal (reftel) was unconstitutional. The indigenous Pachakutik party and the New Country Movement voted in favor. According to the majority, President Palacio had overstepped his constitutional authority by proposing a constituent assembly, which is not authorized by the constitution. Instead, he must submit the proposal to Congress, the TSE ruled.

Plan B?

3. (C) After the negative decision of the TSE, defenders of the president's tactics were thin on the ground. Presidential secretary Luis Herreria claimed he had opposed the assembly proposal from the start, blaming it on a competing presidential advisor, Jose Apolo, and the president's legal advisor. For his part, presidential legal advisor Roberto Gonzalez told PolChief on October 20 that he agreed with the TSE's constitutional interpretation, and had offered his resignation to Palacio over the issue (it was refused). He claimed to be unaware of the government's rumored "Plan B" and speculated that the TSE decision had come swiftly to prevent popular support for the assembly from growing in the interim.

4. (SBU) Pachakutik leaders and civil society leaders publicly alleged efforts by the two major parties to encourage the military to cooperate with a plan to oust Palacio from office. Defense Minister Jarrin publicly denied the charge, and threatened to sue one indigenous leader for slander.

5. (SBU) Indigenous and civil society groups have rallied to Palacio's side on the assembly proposal, seeing an opportunity to insert favored causes in an assembly to redraft the constitution. Indigenous and human rights groups want to include debate over an FTA with the U.S. in this forum, which by Palacio's request would coincide with the 2006 election campaign. Proponents of an assembly are citing polls showing overwhelming public support for an assembly, and have begun to organize street marches to show support.

6. (SBU) Former anti-Gutierrez protesters, labeled "bandits" ("forajidos") by Gutierrez, have reactivated to rally in support of the constituent assembly proposal. Infamous Radio Luna is calling for a noise-making demonstration in support starting at 20:00 tonight (October 21), in the tradition of the anti-Gutierrez protests.

Comment

7. (C) The ball is clearly now back in Palacio's court, and his intentions are not yet clear. In a conversation with the Ambassador on the subject on October 19, Palacio appeared serenely resigned to a negative TSE decision, but would not elaborate on how he would react. Emboldened by favorable poll data and growing support from social groups, Palacio may

well spurn dialogue with political party leaders and continue to press his case with the public. Rumored talks between the opposition and the military are always possible here, but there is an equal opportunity for compromise with Congress should Palacio choose to pursue it.

JEWELL